

## **AFFIDAVIT IN SUPPORT A CRIMINAL COMPLAINT**

I, Peter J. Mauro, a Special Agent (SA) with the Federal Bureau of Investigation (hereinafter “FBI”), Cleveland Division, being duly sworn, depose and state as follows:

### **INTRODUCTION AND AGENT BACKGROUND**

1. I am an investigative or law enforcement officer of the United States within the meaning of 18 U.S.C. § 2510(7); that is, an officer of the United States who is empowered by law to conduct investigations of, and to make arrests for, the offenses enumerated in 18 U.S.C § 2516. I have been trained in advanced investigative techniques and have satisfied all requirements defined by the Federal Criminal Investigator Classification series established by the U.S. Office of Personnel Management.

2. I have been employed by the FBI as a Special Agent since August of 2009 and am currently assigned to the Cleveland division, Akron Resident Agency. I have been assigned to, and participated in, investigations in the area of general criminal matters, specializing in Crimes Against Children and crimes involving the internet. I have participated in all of the usual methods of investigation including, but not limited to, financial analysis, physical surveillance, cooperating witnesses, confidential human sources, telephone toll record analysis, interception of wire and cellular telephone communications, consensual monitoring, and the execution of search and arrest warrants. Prior to my employment with the FBI, from 2003 until 2009 I was a Staff Sergeant in the United States Air Force, during which time I served in the Security Forces. I hold an associate degree in criminal justice, a bachelor’s degree in psychology, and a master’s degree in criminal justice. Over the course of my employment as an FBI Special Agent I have conducted and participated in multiple criminal investigations that have resulted in arrests for violent criminal offenses involving children. These crimes resulted in subsequent convictions in Federal Courts.

3. This affidavit is being submitted for the limited purpose of establishing probable cause to believe that Joseph Franklin Smalley (Smalley), date of birth April 11, 1985, has violated 18 U.S.C. § 2252(a)(2) - Receipt of visual depictions of minors engaged in sexually explicit conduct.

4. The statements contained in this affidavit are based in part on: information provided by FBI Special Agents, Task Force Officers [TFO] and FBI Analysts, written reports about this and other investigations that I have received directly or indirectly, from other law enforcement agents, information gathered from the results of physical surveillance conducted by law enforcement agents, reporting by eye witnesses, interviewing Smalley and his associates, independent investigation and analysis by FBI agents/analysts, and my experience, training and background as a Special Agent of the FBI. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation. Instead, I have set forth only the facts that I believe are necessary to establish probable cause for the requested complaint.

5. In or about August 2022 Google reported to the National Center for Missing and Exploited Children six CyberTips on google account Joseph.smalley2016@gmail.com containing Child Sexual Abuse Material [CSAM]. On or about September 7, 2022, the Ohio Internet Crimes Against Children [iCAC] Task Force provided me those six CyberTips containing CSAM. The CyberTips contained the following relevant identifiers: the user was identified as Joseph Smalley, Google account Joseph.smalley2016@gmail.com, verified<sup>1</sup> cellular telephone number 234-703-9314 with conduct dates occurring from, on or about, October 15, 2020, through, on or about, August 12, 2022. The CyberTips were:

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<sup>1</sup> A “verified” telephone number is a number that has been authenticated by the end user. This process usually involves a text message with a hyperlink that the user must click, or an email/push notification to the user verifying the phone number is in fact theirs.

- 130706753
- 130714937
- 130730644
- 130770475
- 130794567
- 131151222

5. CT130706753 listed the subscriber of the target account, Joseph.smalley2016@gmail.com as "Joseph Smalley", verified cellular telephone number 234-703-9314 [verified on or about June 25, 2022, at or about 16:10:41 UTC], and had login IP addresses from, on or about, November 26, 2021, to present. Additionally, the date of birth listed on the CyberTip for the user of the account was April 11, 1985. The Google account in question, Joseph.smalley2016@gmail.com, uploaded a CSAM file on or about August 12, 2022, at or about 1:43 UTC using Internet Protocol address 2603:6011:263c:ae9:1946:effe:b9b7:f83f.

6. On or about September 1, 2022, an Ohio iCAC Investigator served an administrative subpoena for the subscriber of 2603:6011:263c:ae9:1946:effe:b9b7:f83f, on August 12, 2022 at 1:43:04 UTC. On or about September 1, 2022 Charter Communications, the provider of 2603:6011:263c:ae9:1946:effe:b9b7:f83f on August 12, 2022, at 1:43:04 UTC, responded stating the following subscriber details:

- Subscriber Name: JOE SMALLEY
- Service Address: XXXX Woodland Avenue, Ravenna, Ohio 44266-1555
- Service lease date November 20, 2020, through September 5, 2022

7. The remaining CyberTips contained unique CSAM but similar technical data to include date ranges and IP login geolocation information, as well as subscriber and verified cell phone numbers as described in CT130706753.

8. The CyberTips contained 26 total files of CSAM, of which 17 files were videos and the remaining nine files were still images. The CSAM is described herein:

9. An 11 minute and 40 second color video titled, "Google-CT-RPT-27a5799dbbc4315481e9b294727d3c5d-3132luvr\_3132s\_on\_younow\_omegle00776.avi" depicts two prepubescent girls sitting naked in a bathtub filled with water speaking a foreign language. An adult male joins them in the tub, also completely naked. The two young girls begin performing oral sex on the man's erect penis, and he gropes the girls' chest and labia with his fingers and licks them with his tongue. At the conclusion of the video, the man ejaculates at the hands of one girl, while digitally penetrating the other.

10. A 23 minute and 12 second color video titled, "Google-CT-RPT-806f15afbec8ae6ec7eb7575142ba37c-emperor\_camsxx0086.avi" depicts two prepubescent girls approximately eight years old performing for someone on a webcam. For the first few minutes of the video the girls display their buttocks and labia for the camera before one of the girls removes her pants and underwear. The camera pans back and one of the girls with red hair sits naked from the waist down on a metal folding chair with her legs spread exposing her labia for the camera. The second girl, with brown hair digitally penetrates the girl with red hair and then performs cunnilingus. The girl with red hair then turns around and kneels on the folding chair while the girl with the brown hair digitally penetrates the red hair girl's anus. The girls then switch position and do the same acts in reversed roles. The video concludes with the girls both masturbating and performing sex acts on each other with a long slender object as well as a pen or marker, inserting the objects into each other's vaginas.

11. A 27 minute 34 second color video titled, "Google-CT-RPTf8d584b0148c6a3b87856d88498f31fd-emperor\_camsxy0066.avi" depicts a prepubescent girl approximately eight years old and two prepubescent boys approximately eight years old performing for the camera. The children initially take their pants and underwear off and respectively masturbate

showing the girl's vulva and the boys with their erect penises. One of the boys then digitally penetrates the girl's vagina with his fingers. The boys then masturbate each other's erect penises. The girl begins to perform fellatio on both boys at the same time. The video concludes with one of the boys performing cunnilingus on the girl. Throughout the video the boy's penises and scrotums are visible as well as the girl's nipples and vulva.

12. The remaining images and videos contained within the CyberTips are all similar in likeness and kind as those described herein.

13. On or about September 21, 2022, Agents executed federal search warrants at Smalley's residence and on his person. Contemporaneous to the execution of those warrants, I interviewed Smalley. Smalley shared the following information:

14. Smalley stated that he incorporated the Gmail account Joseph.smalley2016@gmail.com roughly three or four years ago. Smalley stated that around his birthday in 2020, he broke up with his ex-girlfriend, identified as K. R. After that point, he began to seek and consume child pornography. Smalley was informed that child pornography was pornography that depicted parties under the age of 18. Smalley estimated that he was present on an identified website known by me to contain CSAM, on less than 100 occasions, but more than 50 occasions. Smalley stated that he would often peruse adult pornography videos on that site and see child pornography videos interspersed throughout the adult pornography. When Smalley found a child pornography video that excited him, he would download the video to his phone and use the video for his pleasure.

15. Smalley then told me how he downloaded, possessed, viewed, and uploaded CSAM to his Google account.

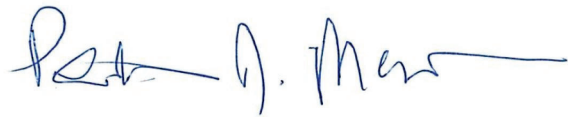
16. Later on or about September 21, 2022, an FBI Task Force Officer spoke with Smalley's former romantic partner [identified as A.W.]. A.W. told the TFO that she had looked on Smalley's cell phone in roughly 2016 and found approximately 1,500 website visits that she suspected as related to child pornography.

17. A.W. further told the TFO that Smalley tried to convince her to participate in a three-way sexual encounter with an identified 16-year-old girl. A.W. declined the offer, but later learned that during to their relationship, Smalley had engaged in sex with that 16-year-old girl without her, as well as another identified 16-year-old girl prior to their relationship. Lastly, A.W. stated that Smalley was obsessed with recording his sexual exploits.

### **CONCLUSION**

Based on the above information, probable cause exists that Joseph Franklin Smalley violated has violated 18 U.S.C. § 2252(a)(2) - Receipt of visual depictions of minors engaged in sexually explicit conduct.

FURTHER AFFIANT SAYETH NOT



Peter J. Mauro, Special Agent  
Federal Bureau of Investigation  
Akron, Ohio

Sworn to via telephone after submission by reliable electronic means. Fed. R. Crim. P. 3, 4(d), and 4.1, on this 22nd day of September, 2022 in Cleveland, Ohio.



Amanda M. Knapp  
United States Magistrate Judge